IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 2394 of 2007()

C.P.29/05 OF J.F.C.M , THIRUVANANTHAPURAM

PETITIONER:ACCUSED

SHIHAB @ MOHAMMED SHIHAB, AGED 24 YEARS,
S/O.KARUPPAMVEETTIL MAJEED,
VYLATHOOR, VADAKKEKAD VILLAGE,
CHAVAKKAD, THRISSUR.

BY ADV. SRI.RAJIT

RESPONDENTS: STATE

STATE OF KERALA REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2394 of 2007

Dated this the 26th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecution, inter alia, under Section 307 and 120 B I.P.C. Investigation is complete. Final report has already been filed. The petitioner did not appear and get enlarged on bail so far at the crime stage or later. After taking cognizance and registering the committal proceedings, warrant of arrest has been issued by the learned Magistrate. The petitioner finds such processes chasing him.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful and was due to reasons beyond his control. The petitioner is willing to appear and apply for bail and co-operate with the court for expeditious disposal of the case. The petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore humbly prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate

would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-